



California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, PE, Chair

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Arnold
Schwarzenegger
Governor

Linda S. Adams

Secretary for
Environmental Protection

17 September 2008

APPROVED

Staff

Senior

Mr. James Starr
Fisheries Branch
Department of Fish and Game
830 S Street
Sacramento, CA 95814

CERTIFIED MAIL
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ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2008-0570 FOR ASSESSMENT OF MANDATORY MINIMUM PENALTIES, CALIFORNIA DEPARTMENT OF FISH AND GAME, NIMBUS SALMON AND STEELHEAD HATCHERY, AND AMERICAN RIVER TROUT HATCHERY, SACRAMENTO COUNTY

Enclosed is an Administrative Civil Liability Complaint (Complaint), issued pursuant to California Water Code section 13385, for violations of Waste Discharge Requirements (WDRs) Order 5-00-268 and R5-2005-0057 (NPDES No. CA0004774) by the California Department of Fish and Game, Nimbus Salmon and Steelhead Hatchery, and American River Trout Hatchery (Discharger). The Complaint charges the Discharger with civil liability in the amount of **nine thousand dollars (\$9,000)**, which represents the sum of accrued Mandatory Minimum Penalties for effluent limitation violations which occurred from 1 July 2000 through 30 April 2008.

On 29 July 2008, Regional Water Board staff issued a draft Record of Violations (ROV). On 13 August 2008, the Discharger responded and agreed with the number of the violations.

Pursuant to CWC section 13323, the Discharger may:

- Pay the assessed civil liability and waive its right to a hearing before the Central Valley Water Board by signing the enclosed waiver (checking off the box next to item #4) and submitting it to this office by **17 October 2008**, along with payment for the full amount;
- Agree to enter into settlement discussions with the Central Valley Water Board and request that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and submitting both the waiver and a letter describing the issues to be discussed to this office by **17 October 2008**; **or**
- Contest the Complaint and/or enter into settlement discussions with the Central Valley Water Board without signing the enclosed waiver.

If the Discharger chooses to sign the waiver and pay the assessed civil liability, this will be considered a tentative settlement of the violations in the Complaint. This settlement will be considered final pending a 30-day period, starting from the date of this Complaint, during which

California Environmental Protection Agency



time interested parties may comment on this action by submitting information to this office, attention Barry Hilton. Should the Regional Water Board receive new information or comments during this comment period, the Regional Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint.

If the Regional Water Board does not receive a signed waiver within 30 days of the date of this Complaint (**by 17 October 2008**), then a hearing will be scheduled for the **4/5 December 2008** Regional Water Board meeting in Rancho Cordova. Specific notice about this hearing and its procedures will be provided under separate cover.

Any comments or evidence concerning the enclosed Complaint must be submitted to this office, attention Barry Hilton, **no later than 5 p.m. on 17 October 2008**. This includes material submitted by the discharger to be considered at a hearing and material submitted by interested parties, including members of the public, who wish to comment on the proposed settlement. If the Regional Water Board does not hold a hearing on the matter, and the terms of the final settlement are not significantly different from those proposed in the enclosed Complaint, then there will not be additional opportunities for public comment on the proposed settlement. Written materials received after **5 p.m. 17 October 2008** will not be accepted and will not be incorporated into the administrative record if doing so would prejudice any party.

If you have any questions or comments regarding the Administrative Civil Liability Complaint, please contact Barry Hilton at (916) 464-4762 or Patricia Leary at (916) 464-4623.

WENDY WYELS
Environmental Program Manager
Compliance and Enforcement Section

Enclosure: ACLC R5-2008-0570

cc w/ encl: Ms. Pamela Creedon, Central Valley Water Board, Rancho Cordova
Mr. Kenneth Greenberg, USEPA, Region 9, San Francisco
Mr. Reed Sato, Office of Enforcement, SWRCB, Sacramento
Mr. Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento
Ms. Lori Okun, Office of Chief Counsel, SWRCB, Sacramento
Ms. Emel Wadhwani, Office of Chief Counsel, SWRCB, Sacramento
Ms. Carol Oz, Department of Fish and Game, Region 2, Rancho Cordova
Sacramento County Environmental Health Management Department, Sacramento
Mr. Bill Jennings, California Sportfishing Protection Alliance, Stockton